

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 26, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, July 26, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Chris Carter, Kevin Davis, Stephen Gawron, Clara Shepherd and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kunding.

2005-65 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the July 11th Community Relations Committee Meeting and Worksession Meeting, and the July 12th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Liquor License Transfer Request - TPWS, Inc., 157 S Getty. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from TPWS, Inc. (Pat's Roadhouse) to transfer ownership of the 2004 Class C-SDM licensed business with dance-entertainment permit, outdoor service (1 area), and two bars, located at 157 S. Getty, from BC Acquisition Company, Inc.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval of the request.

C. Budgeted Vehicle Replacement – Wheel Loader. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase one 721D wheeled loader from West Michigan Power.

FINANCIAL IMPACT: Cost \$119,500 less \$53,000 for the sale of our old unit. Total cost of \$66,500.

BUDGET ACTION REQUIRED: None. There is \$85,000 budgeted for this purchase.

STAFF RECOMMENDATION: Approve purchase of one Case 721D wheeled loader from West Michigan Power.

E. Request for an Encroachment Agreement. ENGINEERING

SUMMARY OF REQUEST: Parsons on behalf of ExxonMobil Oil Corporation has filed the encroachment agreement form to install nine monitoring wells in the public right of way at the following locations:

1. Alley between Miner Avenue and Harrison Avenue located immediately east of McCracken Street (cluster of 3 wells).
2. Alley between Morton Avenue and Miner Avenue located immediately east of Moon Street (cluster of 3 wells).
3. Alley between Harrison Avenue and Lakeshore Drive located immediately west of Moon Street (cluster of 3 wells).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

Motion by Commissioner Gawron, second by Commissioner Carter to approve the Consent Agenda as read with the exception of item D.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

2005-66 ITEM REMOVED FROM THE CONSENT AGENDA:

D. Rezoning Request for Properties Located at 2360 S. Getty Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone properties located at 2360 S. Getty

Street, from B-4, General Business to I-2, General Industrial.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their July 14, 2005, meeting. The vote was unanimous in favor of the request with S. Warmington and B. Smith absent.

Motion by Commissioner Davis, second by Vice Mayor Larson to approve the rezoning request for property located at 2360 S. Getty Street from B-4 General Business to I-2 General Industrial.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

2005-67 PUBLIC HEARINGS:

A. Request to Establish an Obsolete Property District - 164 W. Muskegon.

PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Hairitage Properties LLC, Muskegon, Michigan, has requested the establishment of an Obsolete Property District. The district would be located at 164 W. Muskegon, Muskegon, MI. Total capital investment for this project is \$200,000. The project will result in the creation of 15 new jobs in the City.

FINANCIAL IMPACT: If an Obsolete Property Certificate is issued, the property taxes would be frozen for the duration of the certificate.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution establishing an Obsolete Property District for 164 W. Muskegon, Muskegon, MI.

The Public Hearing opened at 5:41 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Spataro, second by Commissioner Shepherd to close the Public Hearing at 5:45 p.m. and establish an Obsolete Property District at 164 W. Muskegon.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

B. Request to Issue an Obsolete Property Certificate - 164 W. Muskegon.
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Hairitage Properties LLC, 164 W. Muskegon, Muskegon, Michigan, has requested the issuance of an Obsolete Property Certificate for the property located at 164 W. Muskegon, Muskegon, MI. The building will be rehabilitated to house a day spa/nail salon. Total capital investment for this project is \$200,000. The project will result in the creation of 15 new jobs in the City. Because of these new jobs, the applicant is eligible for a 10 year certificate.

FINANCIAL IMPACT: If an Obsolete Property Certificate is issued, the property taxes would be frozen for the duration of the certificate.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution issuing an Obsolete Property Certificate for 164 W. Muskegon, Muskegon, MI.

The Public Hearing opened at 5:46 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Shepherd, second by Commissioner Spataro to close the Public Hearing at 5:47 p.m. and issue an Obsolete Property Certificate for 164 W. Muskegon.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

C. Spreading of the Special Assessment Roll: 2005 Sidewalk Program (W-6) & 1114 Wood Street. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment roll for the 2005 Sidewalk Replacement Program and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$140,723.32 will be assessed against 206 parcels.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened at 5:48 p.m. to hear and consider any comments from the public. Patsy Homan, 2055 Crowley, spoke in opposition of the special assessment.

Motion by Commissioner Gawron, second by Commissioner Spataro to close the Public Hearing at 5:52 p.m. and approve the spreading of the special

assessment roll for the 2005 Sidewalk Replacement Program and 1114 Wood Street.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

2005-68 COMMUNICATIONS: Great Lakes Naval Memorial and Museum request for letter of support for building of new museum in Muskegon.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to instruct the City Manager to send a letter of support to Great Lakes Naval Memorial and Museum.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

2005-69 NEW BUSINESS:

A. Request to Pay Police Officers' Legal Fees. CITY MANAGER

SUMMARY OF REQUEST: Police Officers Pete Boterenbrood and John Corrigan have requested that the City reimburse them for legal fees resulting from criminal charges in April, 2003.

FINANCIAL IMPACT: \$5,187.30

BUDGET ACTION REQUIRED: An adjustment to the 2005 General Fund would be required.

STAFF RECOMMENDATION: To deny the request.

Motion by Vice Mayor Larson, second by Commissioner Davis to reimburse Police Officers Pete Boterenbrood and John Corrigan for legal fees resulting from criminal charges in April, 2003.

ROLL VOTE: Ayes: Carter, Davis, Larson, Shepherd, and Warmington

Nays: Gawron and Spataro

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Gawron to request the City Attorney to investigate the bills to be submitted to make sure they pertain to the criminal matter only.

ROLL VOTE: Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, and Carter

Nays: Larson

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Gawron to ask for release of all claims.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

B. Purchase Agreement Between the City of Muskegon and the Downtown Muskegon Development Corporation for Downtown Redevelopment Right-of-Way. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Downtown Muskegon Development Corporation will sell the necessary right-of-way for infrastructure improvements for Western Avenue and First Street. The appraisal for the property was \$475,000. The Downtown Muskegon Development Corporation has agreed to sell it for \$450,000 and donate the remaining amount. The Purchase Agreement contains a Donation Agreement.

FINANCIAL IMPACT: The purchase price is \$450,000. The City will be using Urban Land Assembly (ULA) funds for the acquisition. These funds will be reimbursed to the State of Michigan through Brownfield Tax Increment Financing Tax capture.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Purchase Agreement and authorize the Mayor and Clerk to sign the documents necessary to acquire the property for City right-of-way.

Motion by Commissioner Spataro, second by Vice Mayor Larson to approve the Purchase Agreement between the City of Muskegon and the Downtown Muskegon Development Corporation for downtown redevelopment right-of-way.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

C. Development and Reimbursement Agreement Between the City of Muskegon, the Brownfield Redevelopment Authority and the Downtown Muskegon Development Corporation. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Development and Reimbursement Agreement

outlines the responsibilities of each party in regards to the redevelopment of the former Muskegon Mall site. The signed document is required for the Brownfield Work Plan, which will be reviewed by the Michigan Economic Development Corporation on August 1, 2005.

FINANCIAL IMPACT: These impacts are included in the Agreement.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Development and Reimbursement Agreement and authorize the Mayor and Clerk to sign.

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Board will meet on July 26 to consider approval of the document.

Motion by Commissioner Shepherd, second by Vice Mayor Larson to table and put on the agenda for the Legislative Policy Committee Meeting on Thursday, July 28th.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

D. Selection of Siding Supplier for Fiscal Year 2005-2006. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community and Neighborhood Services Department selection of the vinyl siding supplier for fiscal year 2005-2006. After reviewing all bids, the department selected the lowest bid by Premier Building Supplies located at 2151 S. Harvey, Muskegon, for the price of \$37.65 per building square for white and \$39.94 per square for color.

FINANCIAL IMPACT: Funding will be allocated from the 2005-2006 siding fund.

BUDGET ACTION REQUIRED: None required at this time.

STAFF RECOMMENDATION: To approve the request.

Motion by Commissioner Gawron, second by Commissioner Carter to approve Premier Building Supplies as the siding supplier for fiscal year 2005-2006.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

E. Selection of Siding Contractors for Fiscal Year 2005-2006. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community and Neighborhood Services to

sign contracts with Cutting Edge Construction, 975 Washington, Muskegon, and Gawlik Construction, 2084 Mary, Muskegon, to install vinyl siding at an agreed price of \$70 per building square for the siding program, 2005-2006 fiscal year.

FINANCIAL IMPACT: Funding will be disbursed from the 2005-2006 CDBG Siding fund.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The funding for the siding program was approved by the Commission during the 2005-2006 allocation period last April.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve Cutting Edge Construction and Gawlik Construction as siding contractors for fiscal year 2005-2006.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

F. Authorization to Negotiate Construction Contract for the Mall Re-Development Project. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to negotiate with Milbocker & Sons, the lowest responsible bidder, a construction contract to construct the infrastructure within the referenced development **without** the snowmelt system and related items from the bids which were received on the 8th of July, 2005. The removal of that system will result in a base bid reduction of \$821,082.40 plus a possible reduction in the unit process of other items within the contract that maybe impacted by the snowmelt system. If authorized, staff's recommendation and final numbers will be brought to the Commission at a later date for a decision.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize staff to negotiate with Milbocker and Sons since they were the lowest responsible bidder with or without the snowmelt system.

Motion by Commissioner Spataro, second by Commissioner Carter to authorize staff to negotiate the construction contract for the Mall Re-Development Project with Milbocker & Sons, the lowest responsible bidder.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: Warmington

MOTION PASSES

G. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 227 Southern and 1538 Hudson. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that these structures are unsafe, substandard, public nuisances and that they be demolished within thirty days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

1. 227 Southern

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals notice and order to demolish 227 Southern.

Motion and second amended to delay enforcement action for 60 days.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

2. 1538 Hudson (Area 12)

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish 1538 Hudson.

Motion and second amended to table to the August 23rd meeting contingent upon allowing City staff access to the interior for inspection.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 7:29 p.m.

Respectfully submitted,

Gail A. Kunding, MMC
City Clerk